

1 the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account
2 exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

3 The court is required to screen complaints brought by prisoners seeking relief against a
4 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
5 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
6 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek
7 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).
8 Plaintiff filed his original complaint on August 12, 2016 and then filed an amended complaint on
9 August 25, 2016. Good cause appearing, the court will screen the amended complaint.

10 Having conducted the required screening, the court finds that plaintiff's amended
11 complaint states a claim upon which relief could be granted under the Eighth Amendment against
12 defendant Hill with respect to plaintiff's allegations that Hill ignored plaintiff's pleas to be
13 housed separately from inmate Weaver.

14 Plaintiff also identifies the Butte County Jail and Sheriff Kory Honea as defendants. A
15 municipality, or a department thereof, can be liable under § 1983 when an injury occurs pursuant
16 to execution of a custom or policy of the municipality. Monell v. Dep't of Soc. Services of
17 N.Y.C., 436 U.S. 658, 694 (1978). Plaintiff fails to allege any facts which reasonably suggest it
18 was a specific policy or custom of the Butte County Jail that caused him injury. As for Sheriff
19 Honea, plaintiff fails to point to any facts indicating he had any involvement in any of the matters
20 alleged in plaintiff's complaint. It appears plaintiff names Sheriff Honea as a defendant simply
21 because he is in charge of the Butte County Jail. However, there can be no liability under 42
22 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant's actions
23 and the claimed deprivation, Rizzo v. Goode, 423 U.S. 362 (1976), and vague allegations of
24 official participation in civil rights violations are not sufficient. Ivey v. Board of Regents, 673
25 F.2d 266, 268 (9th Cir. 1982).

26 At this point, plaintiff has two options: 1) he may either proceed only on the claim
27 identified above against defendant Hill; or 2) attempt to cure the deficiencies with respect to other
28 claims in a second amended complaint.

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If plaintiff chooses to amend, plaintiff is informed that the court cannot refer to a prior pleading in order to make an amended pleading complete. Local Rule 220 requires that an amended complaint be complete in itself without reference to any prior pleading. This is because, as a general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no longer serves any function in the case. Therefore, in an amended complaint, as in an original complaint, each claim and the involvement of each defendant must be sufficiently alleged.

In accordance with the above, IT IS HEREBY ORDERED that plaintiff is granted thirty days to file a second amended complaint that complies with the terms of this order. If plaintiff does not file a second amended complaint within 30 days, this action will proceed on plaintiff's claim arising under the Eighth Amendment against defendant Hill.

Dated: June 6, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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